

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

LARRY MAY, *et al.*,

Plaintiffs,

Case No. 21-cv-10911

Hon. Matthew F. Leitman

v.

GREAT LAKES  
WATER AUTHORITY, *et al.*,

Defendants.

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**ORDER GRANTING PLAINTIFFS LEAVE  
TO FILE A FIRST AMENDED COMPLAINT**

On April 22, 2021, Plaintiffs Larry May and others and filed this action against several Defendants including Defendants Great Lakes Water Authority and AFSCME Local 2920. (*See* Compl., ECF No. 1.) Plaintiffs allege, among other things, that the Defendants violated federal and state laws arising out of Plaintiffs' employment. (*See id.*)

On August 16, 2021, AFSCME Local 290 filed a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6). (*See* Mot. to Dismiss, ECF No. 16.) Great Lakes Water filed its own motion to dismiss pursuant to Rule 12(b)(6) on August 18, 2021. (*See* Mot. to Dismiss, ECF No. 17.) The Court has scheduled a hearing on the motions for March 8, 2022. (*See* Notice of Hearing, ECF No. 26.) One of Defendants' bases for dismissal is that Plaintiffs have failed to plead

sufficient facts to state viable claims under the Supreme Court’s decisions in *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007) and *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). (See, e.g., *Mot. to Dismiss*, ECF No. 16, PageID.453-454, 457-461.) In response to the motions, Plaintiffs argue, among other things, that “any attack on [their] pleadings” is “without merit” because they “have the right to amend as a matter of course.” (Resp. to Mot. to Dismiss, ECF No. 19, PageID.632.)

Without expressing any view regarding the merits of the motion to dismiss, the Court will grant Plaintiffs the opportunity to file a First Amended Complaint in order to remedy the alleged deficiencies in its claims identified by the Defendants in the motions to dismiss. The Court does not anticipate allowing Plaintiffs another opportunity to amend to add factual allegations that they could now include in their First Amended Complaint. Simply put, this is Plaintiffs’ opportunity to allege any and all additional facts, currently known to them, that may cure the alleged deficiencies in their claims.

By **February 23, 2022**, Plaintiffs shall file a notice on the docket in this action notifying the Court and the Defendants whether they will amend the Complaint. If Plaintiffs provide notice that they will be filing a First Amended Complaint, they shall file that amended pleading by no later than **March 9, 2022**. If Plaintiffs provide notice that they will be filing a First Amended Complaint, the Court will terminate without prejudice Defendants’ currently-pending motions to dismiss as moot and

will cancel the scheduled hearing on those motions. Defendants may re-file their motions to dismiss directed at the First Amended Complaint if they believe that such motions are appropriate after reviewing that pleading.

**IT IS SO ORDERED.**

s/Matthew F. Leitman

MATTHEW F. LEITMAN

UNITED STATES DISTRICT JUDGE

Dated: February 16, 2022

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on February 16, 2022, by electronic means and/or ordinary mail.

s/Holly A. Ryan

Case Manager

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